

on or before the applicable sales closing date. If the date of reinstatement of eligibility occurs after the applicable sales closing date for the crop year, the person may not participate until the following crop year. If the National Appeals Division determines that the person should not have been placed on the Ineligible Tracking System, reinstatement will be effective at the beginning of the crop year for which the producer was listed on the Ineligible Tracking System and the person will be entitled to all applicable benefits under the policy.

§ 400.683 Administration and maintenance.

(a) Ineligible producer data will be maintained in a system of records in accordance with the Privacy Act, 5 U.S.C. 552a.

(1) The Ineligible Tracking System is a record of all persons who have been determined to be ineligible for participation in any program pursuant to this subpart. This system contains identifying information of the ineligible person including, but not limited to, name, address, telephone number, SSN or EIN, reason for ineligibility, and time period for ineligibility.

(2) Information in the Ineligible Tracking System may be used by Federal agencies, FCIC employees, contractors, and reinsured companies and their personnel who require such information in the performance of their duties in connection with any program administered under the Act. The information may be furnished to other users including, but not limited to, FCIC contracted agencies; credit reporting agencies and collection agencies; in response to judicial orders in the course of litigation; and other users as may be appropriate or required by law or regulation. The individual information will be made available in the form of various reports and notices produced from the Ineligible Tracking System, based on valid requests.

(3) Supporting documentation regarding the determination of ineligibility and reinstatement of eligibility will be maintained by FCIC and FSA, or its contractors, reinsured companies, and Federal and State agencies. This documentation will be maintained con-

sistent with the electronic information contained within the Ineligible Tracking System.

(b) Information may be entered into the Ineligible Tracking System by FCIC or FSA personnel.

(c) All persons applying for or renewing crop insurance contracts issued or reinsured by FCIC will be subject to validation of their eligibility status against the Ineligible Tracking System. Applications or benefits approved and accepted are considered approved or accepted subject to review of eligibility status in accordance with this subpart.

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

AUTHORITY: 7 U.S.C. 1506(l), 1506(p).

SOURCE: 66 FR 47951, Sept. 17, 2001, unless otherwise noted.

§ 400.700 Basis, purpose, and applicability.

This subpart establishes guidelines for the submission of policies, plans of insurance, and rates of premium to the Board under section 508(h) of the Act and for non-reinsured supplemental policies in accordance with the SRA, and the roles and responsibilities of FCIC and the applicant. It also specifies the procedures for requesting reimbursement for research and development and maintenance costs for products and the approval process.

§ 400.701 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.)

Actuarial documents. The forms and associated materials applicable to a crop or insurance year, which are available for public inspection in an agent's office and FCIC's website at www.act.fcic.usda.gov. These materials show the insurable acreage or commodities, the applicable guarantees, coverage levels, premium rates, insurable cropping practices common to the area, and other related information regarding crop insurance or other risk management plans of insurance in the county or state.

Actuarially appropriate. Premium rates determined to cover the anticipated loss and a reasonable reserve based on valid reasoning, an examination of all known risk data, and founded on thorough knowledge or experience of the expected value of all future costs associated with a risk transfer.

Administrative and operating (A&O) subsidy. An amount for expenses associated with selling and servicing insurance products authorized by the Act and paid by FCIC on behalf of the producer to approved insurance providers.

Applicant. Any person or entity that submits a policy, provisions of a policy, or premium rates to the Board for approval under section 508(h) of the Act.

Approved insurance provider. A private insurance company that has been approved by FCIC to provide insurance coverage to producers participating in programs authorized by the Act.

Board. The Board of Directors of FCIC.

Complexity. Complexity takes into consideration such factors as originality, the number and type of factual determinations necessary to establish insurable interest, evaluate risk, and determine whether an indemnity is payable, the number of commodities and areas to which the product is applicable, the rating methodology, the number of risks covered, unique policy provisions or endorsements, the delivery process of the submission, and the process of creating rules, policy terms and conditions, underwriting procedures, rating methodologies, administrative and operating procedures, and supporting materials.

Development. The process of creating rules, methodologies, administrative and operating procedures, supporting materials, and documentation necessary to submit, gain approval, and implement a proposed policy or coverage.

Endorsement. A document appended to a policy reinsured under the Act that supplements or amends the insurance coverage of that policy.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Maintenance. The process of continual support and improvement, as needed, for a policy or plan of insur-

ance, including the periodic review of setting prices, updating premium rates or the rating methodology, updating or modifying policy terms and conditions, expanding into new commodities and areas, and other measures necessary to assure financial viability and actuarial soundness or to respond to statutory or regulatory changes.

Maintenance costs. Specific expenses associated with the maintenance of a policy during the maintenance period.

Maintenance period. A period of time that begins on the date the Board approves the submission for maintenance and ends on the date that is not more than four reinsurance years after such approval.

Manager. The Manager of FCIC.

Marketable. An evaluation by the Board of the marketing plan submitted by the applicant that determines that producers will purchase the product and approved insurance providers will sell the product based on credible evidence provided by the applicant.

Marketing plan. A detailed, written plan that identifies, at a minimum, the expected number of potential buyers, premium, and liability, the data upon which such information is based and a prescribed insurance year cycle.

Multiple peril crop insurance (MPCI). All insurance policies reinsured by FCIC that offers coverage for loss of production.

National Agricultural Statistics Service (NASS). An agency of the United States Department of Agriculture, or a successor agency.

Non-reinsured supplemental policy (NRS). A policy, endorsement or other risk management tool that is developed by an approved insurance provider, or an entity affiliated in some manner with an approved insurance provider, that offers coverage, other than for loss related to hail, for commodities in addition to coverage available under a policy or plan of insurance that is reinsured by FCIC. This policy, endorsement or other risk management tool has not been submitted under 508(h) for FCIC approval for reinsurance.

Non-significant changes. Minor changes to the policy or plan of insurance, such as technical corrections, that do not affect the rating or pricing

methodologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy. This includes any changes due to statutory or regulatory requirements.

Policy. A contract for insurance that includes an application, Basic Provisions, applicable commodity provisions, other applicable options and endorsements, the actuarial documents for the insured commodity, and related materials.

Plan of insurance. A class of policies, such as MPCIC or Crop Revenue Coverage, that offer a specific type of coverage to one or more agricultural commodities.

Rate of premium. The dollar amount per insured unit or percentage rate per dollar of liability that is needed to pay anticipated losses and provide a reasonable reserve.

Related materials. The actuarial documents, special provisions, and any underwriting or loss adjustment manuals, handbooks, forms or other materials.

Research. The processes used to determine the need, producer interest, if the product is marketable, and feasibility of a proposed policy, plan of insurance or rate of premium.

Research and development costs. Specific expenses incurred and directly related to research and development of a submission approved by the Board.

Revenue insurance. Plans of insurance providing protection against loss of income or change in price.

Risk Management Agency (RMA). An agency of USDA responsible for the administration of all programs authorized under the Act and other authorities.

Risk subsidy. The portion of the approved premium paid by FCIC on behalf of the insured person.

Sales closing date. The final calendar date on which an approved insurance provider may accept an application by a producer for insurance.

Secretary. The Secretary of the United States Department of Agriculture.

Significant change. Any change to the policy or plan of insurance that may affect the rating and pricing meth-

odologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

Submission. A policy, plan of insurance, provision of a policy or plan of insurance, or rates of premium provided by an applicant to FCIC in accordance with the requirements of this subpart.

USDA. The United States Department of Agriculture.

User fees. Fees, approved by the Board, that can be charged to approved insurance providers for use of a policy or plan of insurance.

§ 400.702 Confidentiality of submission and duration of confidentiality.

(a) Prior to approval by the Board, any submission made to the Board under section 508(h) of the Act, including any information generated from the submission, will be considered confidential commercial or financial information for purposes of 5 U.S.C. 552(b)(4) and will not be released by FCIC to the public, unless the applicant authorizes such release in writing.

(b) Once the Board approves a submission, all information provided with the submission, or generated in the approval process, may be released to the public, including any mathematical modeling and data, unless it remains confidential business information under 5 U.S.C. 552(b).

(c) Any submission disapproved by the Board will remain confidential commercial or financial information in accordance with 5 U.S.C. 552(b) and no information related to such submission will be released by FCIC unless authorized in writing by the applicant.

§ 400.703 Timing of submission.

(a) A submission may only be provided to FCIC the first 5 business days of the months of, January, April, July, and October.

(b) Any submission not provided within the first 5 business days of a month stated in paragraph (a) of this